

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

GMO GAMECENTER USA, INC. and GMO
INTERNET GROUP, INC.

Plaintiffs,

- against -

WHINSTONE US, INC.,

Defendant.

WHINSTONE US, INC.,

Counterclaim Plaintiff,

- against -

GMO GAMECENTER USA, INC. and GMO
INTERNET GROUP, INC.,

Counterclaim Defendants.

Civil Action No. 1:22-cv-05974-JPC

**DECLARATION OF HEATH
DAVIDSON IN SUPPORT OF
WHINSTONE'S OPPOSITION TO
GMO'S ORDER TO SHOW CAUSE
FOR A TEMPORARY RESTRAINING
ORDER TO PRESERVE EVIDENCE
AND THE STATUS QUO**

I, HEATH DAVIDSON, hereby declare as follows:

1. I am Vice President of Operations at Whinstone US, Inc. (“Whinstone”), and I have held this position since June 2023.

2. My responsibilities as Vice President of Operations include managing all daily operations and miner maintenance for Whinstone.

3. I have been working at Whinstone’s mining and hosting facility in Rockdale, Texas (the “Texas Facility”) since February 2020. The Texas Facility is located at 2721 Charles Martin Hall Road, Rockdale, Texas 76567.

4. I submit this Declaration in support of Defendant Whinstone’s Opposition to GMO’s Order to Show Cause for a Temporary Restraining Order to Preserve Evidence and the Status Quo.

5. I am fully familiar with the facts set forth herein based on my personal knowledge and could testify to same if called upon.

6. GMO Gamecenter USA, Inc. and GMO Internet Group, Inc. (collectively, “GMO”) currently have mining machines located in Building A of the Texas Facility pursuant to an agreement between Whinstone and GMO (the “Texas Agreement”).

7. On June 29, 2023, Whinstone sent GMO notice terminating the Texas Agreement (the “Notice of Termination”) effective immediately. In the Notice of Termination, Whinstone provided GMO with a 30-day period, until July 29, 2023, to preserve any evidence needed for trial before it would begin removing GMO’s machines from Building A of the Texas Facility. This deadline was subsequently amended to August 2, 2023 in good faith to allow GMO and its expert ample opportunity to visit and inspect the operation of GMO’s machines at the Texas Facility.

8. Keeping GMO's machines in place and fully operating as Plaintiffs request for an additional two months, until October 1, 2023, or until the end of the discovery period, October 27, 2023, would impose enormous costs on Whinstone. This includes various costs associated with the operation of Building A including electricity costs which total approximately \$850,000 per month; maintenance fees to ensure the continued functionality of the building which total approximately \$12,000 per month; security costs to guard and monitor GMO's equipment in Building A which total approximately \$3,200 per month; and cooling costs to ensure the machines located inside Building A do not overheat which total approximately \$33,000 per month. In total, Whinstone would be forced to expend approximately \$900,000 per month solely to maintain GMO's machines in Building A.

9. Maintaining GMO's machines at the Texas Facility would also cause Whinstone significant financial harm in terms of opportunity cost. Once GMO's machines are successfully removed from the Texas Facility, Whinstone will be able to fill that space with mining machines that are newer, more efficient, and thus far more profitable. Whinstone estimates the additional profits they are losing each month that new machines are not installed in Building A of the Texas Facility to be approximately \$4,600,000.

10. GMO and its representatives have had access to the Texas Facility and Building A at all relevant times since the filing of this suit. GMO and its representatives have never been denied access to the Texas Facility.

11. I was present at the Texas Facility on August 1, 2023 and August 2, 2023 when GMO and its expert visited the Texas Facility to collect relevant information regarding GMO's operation. On August 1, 2023 and August 2, 2023, GMO and its representatives visited the site for less than 10 hours total. During their visit, I specifically requested if GMO's expert needed

any additional information or observation of the Texas Facility. GMO's expert stated that he did not require any additional information or observation.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: Rockdale, Texas
August 2, 2023

Heath Davidson _____

WHINSTONE US, INC.